

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

MOLDEX-METRIC, INC.,  Plaintiff,  vs.  3M COMPANY and 3M INNOVATIVE PROPERTIES COMPANY,  Defendants.	Civil No. 14-1821 (JNE/FLN)
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**DECLARATION OF EILEEN M. HUNTER IN SUPPORT OF 3M  
DEFENDANTS' MEMORANDUM IN OPPOSITION TO MOLDEX'S MOTION  
FOR LEAVE TO AMEND ITS COMPLAINT**

I, Eileen M. Hunter, declare as follows:

1. I am an attorney at Faegre Baker Daniels LLP. I am one of the lawyers representing 3M Company and 3M Innovative Properties Company ("3M") in connection with the above-captioned action. This declaration is made on my personal knowledge and belief.

2. Seven depositions took place between October 9, 2015, and the close of discovery on November 1, 2015: Julie Bushman (Oct. 20); Douglas Moses (Oct. 21); William Schubach (Oct. 22); Walter Pawlowski (Oct. 23); Jeffrey Birkner (Oct. 26); Terry Grimsley (Oct. 26); and Kevin Michael (Oct. 29).

3. I have attached to this declaration a true and correct copy of the following documents:

- EXHIBIT 1:** 3M production letter for document range 3M00001503-3M00030406, November 16, 2012.
- EXHIBIT 2:** 3M production letter for document range 3M00030407-3M00050201, December 7, 2012.
- EXHIBIT 3:** 3M production letter for document range 3M00050202-3M00055410, December 13, 2012.
- EXHIBIT 4:** 3M production letter for document range 3M00055411-3M00058672, December 21, 2012.
- EXHIBIT 5:** 3M production letter for document range 3M00074571-3M00075872, January 22, 2013.
- EXHIBIT 6:** 3M production letter for document range 3M00075873-3M00077072, February 5, 2013.
- EXHIBIT 7:** 3M production email for document range 3M00077263-3M00078240, April 25, 2013.
- EXHIBIT 8:** Moldex compliance letter pursuant to protective order, August 20, 2013.
- EXHIBIT 9:** 3M letter for re-producing document range 3M00000001-3M00078304 and production of deposition transcripts and exhibits for document range 3M00078305-3M00080309, April 14, 2015.
- EXHIBIT 10:** Deposition of Elliott Berger, April 2, 2013, p. 188. (*Filed Under Seal.*)
- EXHIBIT 11:** 3M production document bearing number 3M00001746-47. (*Filed Under Seal.*)
- EXHIBIT 12:** 3M production document bearing production number 3M00001791-92. (*Filed Under Seal.*)
- EXHIBIT 13:** 3M production document bearing production number 3M00051022-23. (*Filed Under Seal.*)
- EXHIBIT 14:** Ohlin Dep. Ex. 524. (*Filed Under Seal.*)

- EXHIBIT 15:** McGinley Dep. Ex. 111. (*Filed Under Seal.*)
- EXHIBIT 16:** Moses Dep. Ex. 137. (*Filed Under Seal.*)
- EXHIBIT 17:** Ohlin Dep. Ex. 519. (*Filed Under Seal.*)
- EXHIBIT 18:** 3M production document bearing production number 3M00076137-41. (*Filed Under Seal.*)
- EXHIBIT 19:** Ohlin Dep. Ex. 530. (*Filed Under Seal.*)
- EXHIBIT 20:** Ohlin Dep. Ex. 517. (*Filed Under Seal.*)
- EXHIBIT 21:** July 15, 2013 Invoice to Moldex-Metric from Quinn Emanuel Trial Lawyers (*Filed Under Seal.*)
- EXHIBIT 22:** Deposition of Elliott Berger, Oct. 8, 2015, pp. 109-113. (*Filed Under Seal.*)
- EXHIBIT 23:** Deposition of Kevin Michael, Oct. 29, 2015, pp. 57-63. (*Filed Under Seal.*)
- EXHIBIT 24:** Deposition of Patrick Riordan deposition (rough transcript) Nov. 18, 2015, pp. 77-78. (*Filed Under Seal.*)
- EXHIBIT 25:** Deposition of Douglas Moses, Apr. 4, 2013, pp. 166-68. (*Filed Under Seal.*)
- EXHIBIT 26:** SourceAmerica subpoena, Aug. 21, 2015.
- EXHIBIT 27:** Walter Pawlowski deposition subpoena, Sept. 16, 2015.
- EXHIBIT 28:** Michael Dep. Ex. 1113. (*Filed Under Seal.*)
- EXHIBIT 29:** Documents produced by Moldex on Nov. 18, 2015, in response to Court's 10/28/15 Order that it produce all "documents responsive to Document Request Nos. 17, 19–22, 24–26. (*Filed Under Seal.*)

4. During the patent litigation underlying this lawsuit (D. Minn., 12cv611-JNE/FLN), 3M produced documents bearing production numbers 3M00000001 – 3M00078304 commencing on October 24, 2012 and concluding on May 1, 2013.

5. 3M's patent litigation production documents remained in Moldex's counsel's possession until on or about August 20, 2013. See **EXHIBIT 8**.

6. On April 14, 2015, 3M re-produced the underlying patent litigation documents, along with underlying patent litigation deposition transcripts and marked exhibits, in connection with this lawsuit. See **EXHIBIT 9**.

7. Many of the citations in the Declaration of Matthew Hosen in Support of Moldex's Motion to Amend its Complaint (Dkt. 144) ("Hosen Decl.") are to documents that were previously produced to Moldex during the underlying patent litigation and re-produced at the commencement of document production by the parties in this lawsuit.

8. Hosen Decl., ¶ 20, Exhibit 18, is a document that 3M produced in the underlying patent litigation on December 7, 2012, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 2 and 9**.

9. Hosen Decl., ¶ 33, Exhibit 5205, contains a five-page unendorsed report that was sent to Moldex's counsel by Eric Levinson at the start of the underlying patent litigation, and marked as an exhibit to the deposition of Elliott Berger that was taken in the underlying patent litigation on April 2, 2013. See **EXHIBIT 10**.

10. Hosen Decl., ¶ 34, Exhibit 5224, is a compilation of six documents, one (Exhibit 5224 at 3M00077339) of which was previously produced to Moldex during the underlying patent litigation on April 25, 2013, and re-produced in this lawsuit on April

14, 2015. See **EXHIBITS 7** and **9**. Another document in this set was produced in the underlying patent litigation bearing a different number on November 16, 2012 (cf. Exhibit 5224 at 3M00118127-28 to 3M00001746-47), and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 1, 9** and **11**.

11. Hosen Decl., ¶ 36, Exhibit 5304, is a near-duplicate of a document that was produced in the underlying patent litigation with a different production number on November 16, 2012 (cf. Exhibit 5304 (3M0000101316-17) to 3M00001791-21), and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 1, 9** and **12**.

12. Hosen Decl. ¶ 41, Exhibit 5601, cites to a document that was produced in the underlying patent litigation bearing a different number on December 21, 2012 (cf. Exhibit 5601 (3M00117420-21) to 3M00051022-23), and re-produced on April 14, 2015. See **EXHIBITS 4, 9** and **13**.

13. Hosen Decl., ¶ 43, Exhibit 5610, is a document that was produced in the underlying patent litigation on December 7, 2012, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 2** and **9**.

14. Hosen Decl., ¶ 44, Exhibit 5611, is a document that was produced in the underlying patent litigation on December 7, 2012, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 2** and **9**.

15. Hosen Decl., ¶ 45, Exhibit 5612, is a document that was produced in the underlying patent litigation on January 22, 2013, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 524 at the deposition of

Douglas Ohlin taken in the underlying patent litigation on April 24, 2013. See

**EXHIBITS 5, 9 and 14.**

16. Hosen Decl., ¶ 46, Exhibit 5613, is a document that was produced in the underlying patent litigation on January 22, 2013, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 5 and 9.**

17. Hosen Decl., ¶ 47, Exhibit 5614, is a document that was produced in the underlying patent litigation on February 5, 2013, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 111 at the deposition of Brian McGinley taken in the underlying patent litigation on April 2, 2013. See **EXHIBITS 6, 9 and 15.**

18. Hosen Decl., ¶ 48, Exhibit 5616, is a document that was produced in the underlying patent litigation on December 13, 2012, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 137 at the deposition of Douglas Moses taken in the underlying patent litigation on April 4, 2013. See **EXHIBITS 3, 9 and 16.**

19. Hosen Decl., ¶ 49, Exhibit 5617, is a document that was produced in the underlying patent litigation on February 5, 2013, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 519 at the deposition of Douglas Ohlin taken in the underlying patent litigation on April 24, 2013. See **EXHIBITS 6, 9 and 17.**

20. Hosen Decl., ¶ 50, Exhibit 5618, is a document that was produced in the underlying patent litigation on January 22, 2013, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 5** and **9**.

21. Hosen Decl., ¶ 51, Exhibit 5626, is a document that was produced in the underlying patent litigation on February 5, 2013, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 6** and **9**.

22. Hosen Decl., ¶ 52, Exhibit 5628, is a document that was produced in the underlying patent litigation on December 21, 2012, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 4** and **9**.

23. Hosen Decl., ¶ 53, Exhibit 5629, is a document that was produced in the underlying patent litigation on November 16, 2012, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 1** and **9**.

24. Hosen Decl., ¶ 55, Exhibit 5631, is a near-duplicate of a document that was produced in the underlying patent litigation with a different production number on February 5, 2013 (cf. Exhibit 5631 (3M00156781-84) to 3M00076137-41), and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 6, 9** and **18**.

25. Hosen Decl., ¶¶ 57 and 65, Exhibit 5637, is a document that was produced in the underlying patent litigation on December 21, 2012, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 530 at the deposition of Douglas Ohlin taken in the underlying patent litigation on April 24, 2013. See **EXHIBITS 4, 9** and **19**.

26. Hosen Decl., ¶ 66, Exhibit 5638, is a document that was produced in the underlying patent litigation on November 16, 2012, and re-produced in this lawsuit on April 14, 2015. This same document was marked as Deposition Exhibit 517 at the deposition of Douglas Ohlin taken in the underlying patent litigation on April 24, 2013. See **EXHIBITS 1, 9** and **20**.

27. Hosen Decl., ¶ 60, Exhibit 5711, is a document that was produced in the underlying patent litigation on February 5, 2013, and re-produced in this lawsuit on April 14, 2015. See **EXHIBITS 5** and **9**.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: November 23, 2015

*/s/ Eileen M. Hunter*  
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Eileen M. Hunter